

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

IN RE WASHINGTON MUTUAL
MORTGAGE BACKED SECURITIES
LITIGATION,

This Document Relates to: ALL CASES

Master Case No. C09-037 MJP

[Consolidated with: Case Nos.
CV09-0134 MJP, CV09-0137 MJP, and
CV09-01557 MJP]

**JOINT MOTION FOR
CLARIFICATION OF SCHEDULING
ORDER**

**NOTE ON MOTION CALENDAR:
Monday, February 27, 2012**

*Joint Motion for Clarification of
Scheduling Order (CV09-037 MJP)*

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1 The parties to the above-captioned actions jointly submit this motion to
2 seek the Court's clarification of one aspect of the September 6, 2011 Scheduling Order
3 (Dkt. No. 335). Specifically, the parties respectfully request that the Court confirm the
4 parties' understanding regarding the deadline for motions directed to the admissibility of
5 expert testimony, including pursuant to *Daubert v. Merrill Dow Pharmaceuticals, Inc.*,
6 509 U.S. 579 (1993).

7 The parties first proposed a schedule to govern this matter through trial in
8 their October 12, 2010 joint status report (Dkt. No. 200). In making that proposal, the
9 parties' intention and understanding was that motions directed to the admissibility of
10 expert testimony would be due by the deadline for submitting motions in limine
11 (currently slated for July 1, 2012), which is when such motions are customarily filed as
12 they pertain primarily to the admissibility of evidence for trial.

13 However, during recent discussions related to expert discovery, it occurred
14 to the parties that there may be a potential ambiguity as to the deadline for *Daubert*
15 motions based on the April 10, 2012 "Deadline for Expert Discovery Motions" reflected
16 in the current scheduling order. That language had its genesis in the October 10, 2010
17 joint status report that was subsequently incorporated into the October 29, 2010
18 Scheduling Order (Dkt. No. 207) and the current September 6, 2011 Amended
19 Scheduling Order. It was not the parties' intention for the "expert discovery motion"
20 deadline to apply to *Daubert* motions but rather to disputes more commonly associated
21 with discovery—for example, motions to compel the production of documents relied
22 upon by a party's expert. Nevertheless, while *Daubert* motions certainly are not
23 "discovery" motions, they do relate to expert testimony, so the parties deemed it prudent,
24 in an abundance of caution, to seek the Court's confirmation of the parties' understanding
25

1 of this aspect of the schedule. Accordingly, the parties respectfully request that the Court
2 clarify that the deadline applicable to *Daubert* motions in the current schedule is the
3 July 1, 2012 deadline for the filing of motions in limine, and not the April 10, 2012
4 “Deadline for Expert Discovery Motions”.

5
6 DATED this 27th day of February, 2012.

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of February, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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